



**BILLING CODE: 6820-EP**

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Part 25**

**[FAR Case 2020-009; Docket No.FAR-2020-0009; Sequence No. 1]**

**RIN 9000-AO07**

**Federal Acquisition Regulation: List of Domestically**

**Nonavailable Articles**

**AGENCY:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** DoD, GSA, and NASA are considering amending the Federal Acquisition Regulation (FAR) to update the list of domestically nonavailable articles under the Buy American statute. DoD, GSA, and NASA are seeking information that will assist in identifying domestic capabilities and for evaluating whether some articles on the list of domestically nonavailable articles are now mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

**DATES:** Interested parties should submit comments at the address shown below on or before **[Insert date 60 days after date of publication in the *FEDERAL REGISTER*]**.

**ADDRESSES:** Submit comments in response to FAR Case 2020-009 by to <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for "FAR Case 2020-009". Select the link "Comment Now" that corresponds with "FAR Case 2020-009." Follow the instructions provided on the screen. Please include your name, company name (if any), and "FAR Case 2020-009" on your attached document. If your comment cannot be submitted using <https://www.regulations.gov>, call or email the points of contact in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

*Instructions:* Please submit comments only and cite "FAR case 2020-009" in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check [www.regulations.gov](http://www.regulations.gov), approximately two to three days after submission to verify posting.

**FOR FURTHER INFORMATION CONTACT:** Ms. Zenaida Delgado, Procurement Analyst, at 202-969-7207 or [zenaida.delgado@gsa.gov](mailto:zenaida.delgado@gsa.gov) for clarification of content. For information pertaining to

status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite FAR Case 2020-009.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

A. The Buy American statute (41 U.S.C. chapter 83) generally requires that only domestically mined, produced, or manufactured articles be procured for public use in the United States. The Buy American statute provides an exception for articles not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality. FAR 25.103(b)(1) provides a determination that articles listed at FAR 25.104(a) meet the conditions of this exception. This determination does not necessarily mean that there is no domestic source for the listed items, but that domestic sources can only meet 50 percent or less of total U.S. Government and nongovernment demand. See FAR 25.103(b)(1)(i).

The established list of articles identified in FAR 25.104(a) is a comprehensive and wide-ranging mix of natural resources, compounds, materials, and other items of supply. Although some articles on the list have no known domestic production sources (e.g., quartz crystals or vanilla beans), many of the articles are known to have some domestic production

sources, but those sources have been determined in the past to be inadequate to meet U.S. demand. Examples of such articles range from goat and kidskins (negligible domestic production), to crude iodine (5 percent of U.S. Government and nongovernment demand), to bismuth (not in excess of 50 percent of U.S. Government and nongovernment demand).

The list is reviewed every five years, as required by FAR 25.104(b). DoD, GSA, and NASA last published in the *Federal Register* a request for public comment on the list on March 24, 2015 (80 FR 15544).

DoD, GSA, and NASA are seeking information to determine whether some articles should be removed from the list because they are now mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality. Specific information with regard to domestic production capacity in relation to U.S. Government and nongovernment demand and the quality of domestically produced items would be most helpful in determining whether articles should remain on or be removed from the list. A sources-sought notice will be published in the Governmentwide point of entry (GPE) in an effort to increase the awareness of this request and to receive greater responses from interested parties on the nonavailable articles listing.

B. The current domestically nonavailable listing at FAR  
25.104 is as follows:

Acetylene, black.

Agar, bulk.

Anise.

Antimony, as metal or oxide.

Asbestos, amosite, chrysotile, and crocidolite.

Bamboo shoots.

Bananas.

Bauxite.

Beef, corned, canned.

Beef extract.

Bephenium hydroxynaphthoate.

Bismuth.

Books, trade, text, technical, or scientific; newspapers;  
pamphlets; magazines; periodicals; printed briefs and films; not  
printed in the United States and for which domestic editions are  
not available.

Brazil nuts, unroasted.

Cadmium, ores and flue dust.

Calcium cyanamide.

Capers.

Cashew nuts.

Castor beans and castor oil.

Chalk, English.

Chestnuts.

Chicle.

Chrome ore or chromite.

Cinchona bark.

Cobalt, in cathodes, rondelles, or other primary ore and metal forms.

Cocoa beans.

Coconut and coconut meat, unsweetened, in shredded, desiccated, or similarly prepared form.

Coffee, raw or green bean.

Colchicine alkaloid, raw.

Copra.

Cork, wood or bark and waste.

Cover glass, microscope slide.

Crane rail (85-pound per foot).

Cryolite, natural.

Dammar gum.

Diamonds, industrial, stones and abrasives.

Emetine, bulk.

Ergot, crude.

Erythrityl tetranitrate.

Fair linen, altar.

Fibers of the following types: abaca, abace, agave, coir, flax, jute, jute burlaps, palmyra, and sisal.

Goat hair canvas.

Goat and kidskins.

Grapefruit sections, canned.

Graphite, natural, crystalline, crucible grade.

Hand file sets (Swiss pattern).

Handsewing needles.

Hemp yarn.

Hog bristles for brushes.

Hyoscine, bulk.

Ipecac, root.

Iodine, crude.

Kauri gum.

Lac.

Leather, sheepskin, hair type.

Lavender oil.

Manganese.

Menthol, natural bulk.

Mica.

Microprocessor chips (brought onto a Government construction site as separate units for incorporation into building systems during construction or repair and alteration of real property).

Modacrylic fiber.

Nickel, primary, in ingots, pigs, shots, cathodes, or similar forms; nickel oxide and nickel salts.

Nitroguanidine (also known as picrite).

Nux vomica, crude.

Oiticica oil.

Olive oil.

Olives (green), pitted or unpitted, or stuffed, in bulk.

Opium, crude.

Oranges, mandarin, canned.

Petroleum, crude oil, unfinished oils, and finished products.

Pineapple, canned.

Pine needle oil.

Platinum and related group metals, refined, as sponge, powder, ingots, or cast bars.

Pyrethrum flowers.

Quartz crystals.

Quebracho.

Quinidine.

Quinine.

Rabbit fur felt.

Radium salts, source and special nuclear materials.

Rosettes.



Rubber, crude and latex.

Rutile.

Santonin, crude.

Secretin.

Shellac.

Silk, raw and unmanufactured.

Spare and replacement parts for equipment of foreign  
manufacture, and for which domestic parts are not available.

Spices and herbs, in bulk.

Sugars, raw.

Swords and scabbards.

Talc, block, steatite.

Tantalum.

Tapioca flour and cassava.

Tartar, crude; tartaric acid and cream of tartar in bulk.

Tea in bulk.

Thread, metallic (gold).

Thyme oil.

Tin in bars, blocks, and pigs.

Triprolidine hydrochloride.

Tungsten.

Vanilla beans.

Venom, cobra.

Water chestnuts.

Wax, carnauba.

Wire glass.

Woods; logs, veneer, and lumber of the following species:  
Alaskan yellow cedar, angelique, balsa, ekki, greenheart, lignum  
vitae, mahogany, and teak.

Yarn, 50 Denier rayon.

Yeast, active dry and instant active dry.

## **II. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule is not a significant regulatory action, and therefore, this proposed rule was not subject to the review of the Office of Information and Regulatory Affairs under section 6(b) of E.O. 12866. This proposed rule is not a major proposed rule under 5 U.S.C. 804.

## **III. Executive Order 13771**

This proposed rule is not subject to E.O. 13771, because this proposed rule is not a significant regulatory action under E.O. 12866.

**List of Subjects in 48 CFR Part 25**

Government procurement.

William F. Clark,  
Director,  
Office of Government-wide  
Acquisition Policy,  
Office of Acquisition Policy,  
Office of Government-wide Policy.  
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